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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,237	11/10/2000	Philip Henry Coelho	30195-pa	3030
37095	7590	11/10/2004	EXAMINER	
BERNHARD KRETEN, ESQ & ASSOCIATES 1331 GARDEN HIGHWAY SUITE 300 SACRAMENTO, CA 95833			KAM, CHIH MIN	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,237

Applicant(s)

COELHO ET AL.

Examiner

Chih-Min Kam

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 14, 15 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/06) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/10/00</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. Claims 1-12 and 14-19 are pending.

Applicants' amendment filed August 23, 2004 is acknowledged. Applicant's response has been fully considered. Claims 11, 15 and 16 have been amended. Claims 1-8 and 12 are non-elected inventions, thus withdrawn from consideration. Therefore, claims 9-11 and 14-19 are examined.

Rejection Withdrawn

Claim Rejections - 35 USC § 112

2. The previous rejection of claims 11, 15 and 16 under 35 U. S. C. 112, second paragraph, is withdrawn in view of applicant's amendment to the claim, and applicant's response at page 5 in the amendment filed August 23, 2004.

Informalities

The disclosure is objected to because of the following informalities:

3. The specification discloses the concentration of CaCl_2 in μM (micromolar; e.g., see Figs. 6-11), however, it also indicates the CaCl_2 concentration in μm (e.g., page 11, lines 16, 24; page 14, line 19; page 16, lines 6, 12, 14; Fig. 5), which is incorrect for the unit of "micromolar". The specification also cites "the calcium chloride concentration is at 0.023 μm of 250 mM" in the description of Fig. 6 (see page 16, lines 11-15), and "(0.011 μM) of 125 mM CaCl_2 in Fig. 6, it is not clear what the actual concentration is. Appropriate correction is required.

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4. The specification cites the term "ETOH" as the formula for ethanol (e.g., page 11, lines 14 and 23). The common term used for ethanol is "EtOH" or "C₂H₅OH". Appropriate correction is required.

Claim Objections

5. Claims 10, 11, 14, 15 and 19 are objected to because of the use of the term "ETOH", the proper term for ethanol is "EtOH" or "C₂H₅OH".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 9 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Boss, Jr. (U. S. Patent 5,591,444, published January 7, 1997).

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Boss, Jr. teaches 50-100 units of autologous thrombin (50 μ l) and 2 ml of the subject's plasma are added to petri dish that is treated to have a tissue culture surface to form a plasma clot (column 5, lines 51-54; claims 9 and 16-18). Since the clotting time of thrombin depends on its concentration, and the stability of thrombin depends on the conditions at which the thrombin is stored, but the claim does not cite the conditions for fast clotting or the stability of thrombin, thus any autologous thrombin would anticipate the claimed invention.

7. Claims 9 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Baugh *et al.* (U. S. Patent 6,444,228, filed April 20, 1998).

Baugh *et al.* teach a serum containing autologous thrombin is collected during a method of preparing an autologous bioadhesive sealant composition (column 4, lines 35-52; Figs 2a-2c; claims 9 and 16-18). Since the clotting time of thrombin depends on its concentration and the stability of thrombin depends on the conditions at which the thrombin is stored, but the claim does not cite the conditions for fast clotting or the stability of thrombin, thus any autologous thrombin would anticipate the claimed invention.

Conclusion

8. Claims 9 and 16-18 are rejected, and claims 10, 11, 14, 15 and 19 are objected to.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

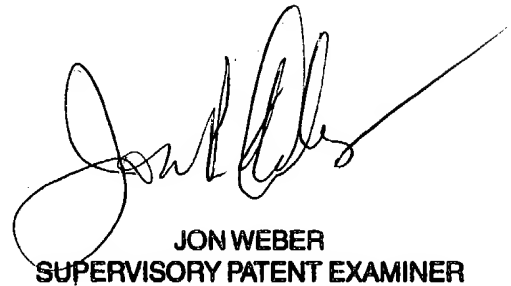
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Min Kam, Ph. D.
Patent Examiner

CMK

CMK
November 3, 2004



JON WEBER
SUPERVISORY PATENT EXAMINER